



# *Freshwater Wetlands Rules Fact Sheet*

## *Overview*

### **What is New Jersey's Freshwater Wetlands Program?**

New Jersey protects wetlands under the New Jersey Freshwater Wetlands Protection Act of 1987. This Act requires the New Jersey Department of Environmental Protection (DEP) to regulate virtually all activities proposed in wetlands. The Act also protects transition areas or "buffers" around freshwater wetlands. In 1994, New Jersey assumed responsibility for the Federal wetlands permitting program in most of the state.

### **Goals of the Freshwater Wetlands Program**

- To improve the quality and function of freshwater wetlands.
- To implement effective techniques for further enhancement of wetlands.
- To establish a regulatory program that limits the amount of wetland loss.
- To achieve a net increase in wetland acreage and quality by 2005. (DEP 1998 Strategic Plan)

### **What strategies will help achieve this net increase in wetlands in New Jersey?**

- New Wetlands Mitigation Program
- Proposed Freshwater Wetlands Rules
- Enhanced Wetlands Compliance and Enforcement Program
- Implementation of CREP (Conservation Resource and Enhancement Program)

### **What is wetland mitigation?**

Mitigation is an activity or activities carried out to compensate for freshwater wetlands or State open waters loss, or disturbance caused by regulated activities. Wetland mitigation is currently required when an applicant receives a general permit for the cleanup of hazardous materials out of a wetland or when an applicant receives an individual permit for unavoidable impact to wetlands. Under the new rules, mitigation for a wetland impact will also be required when an applicant receives a general permit to redevelop brownfield sites.

### **Proposed Rules - Highlights**

**Organization** - The existing regulations were developed before the DEP began to administer the freshwater wetlands program, and this is the first revision of the rules since they were adopted in 1988. The proposal reorganizes the rules to consolidate similar provisions,

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### **What are Wetlands?**

Wetlands are commonly referred to as swamps, marshes, or bogs. However, many wetlands in New Jersey are forested and do not fit the classic picture of a swamp or marsh. Previously misunderstood as wastelands, wetlands are now being recognized for their vital ecological and socioeconomic contributions.

### **What's So Good about Wetlands?**

Many of us grew up thinking wetlands should be drained for farming or filled in for development. But wetlands contribute to the social, economic, and environmental health of our nation in many ways:

- Wetlands protect drinking water by filtering out chemicals, pollutants, and sediments that would otherwise clog and contaminate our waters.
- Wetlands soak up runoff from heavy rains and snow melts, providing natural flood control.
- Wetlands release stored flood waters during droughts.
- Wetlands provide critical habitats for a major portion of the State's fish and wildlife, including endangered, commercial and recreational species.
- Wetlands provide high quality open space for recreation and tourism.

Many of these values were not widely appreciated until the 1970s and 1980s. By then, more than half of the nation's wetlands were destroyed. The New Jersey freshwater wetlands program protects freshwater wetlands, and upland areas up to within 150 feet of wetlands (sometimes called "buffers"), from development that will impair the wetlands' ability to provide the values listed above.

remove unnecessary detail, and substitute plain language for jargon. One example of the reorganization is that the proposal reflects the chronological order in which a person would move through the permitting process.

***New Mitigation System*** - As part of the proposed rules, the new mitigation program will provide applicants with guidance on the required components of a wetland mitigation proposal. Smaller mitigation projects are usually not as successful as larger projects; they tend to provide fewer environmental benefits for the same amount of review and monitoring. The proposed rules encourage consolidating smaller wetland mitigation projects through the purchase of credits (mitigation banking). Through mitigation banking, smaller mitigation projects are aggregated onto one site, which improves the projects' overall ecological benefit. The rules encourage onsite mitigation for larger projects. Under the new system, the mitigation should be in the same watershed as the disturbance whenever possible, but must be in the same watershed management area.

***General Permits*** - The proposal consolidates the list of adopted general permits into a single subchapter in order to simplify the rule. General permits are allowed for small, specific, routine wetland disturbances that have been found not to have more than a minimal cumulative impact on the environment. The proposal deletes three general permits, which cover shipwreck removal, bulkhead construction on human-made lagoons, and road construction permitted by the Army Corps of Engineers prior to the Freshwater Wetlands Protection Act. The proposal adds six new general permits, which address landfill closures, airport sight line clearing, animal waste management in farmed wetlands, spring developments in farmed wetlands, stream cleaning, and redevelopment of certain existing disturbed sites. Some general permits have also been amended to further reduce environmental impacts.

***Brownfields Redevelopment*** - A proposed new general permit authorizes redevelopment of certain existing disturbed sites. It allows for one more acre of disturbance than other general permits allow.

***Vernal Habitats*** - A proposed provision prohibits the issuance of general permits in vernal habitats, a type of isolated wetland. A vernal habitat is a pool, usually in a forest, that is dry part of the year. Vernal pools have recently been recognized as crucial wildlife habitat, especially for amphibian species.

***Residential Development Projects*** - A provision in the proposed rules includes a 20 foot area surrounding a residence in the definition of a residential development project. This will prevent the construction of a house

immediately adjacent to a wetland or wetland transition area. The provision therefore will allow needed flexibility for homeowners, in subsequent construction or improvement activities on their property.

## **Compliance and Enforcement program**

The Coastal and Land Use Compliance and Enforcement Program will expand compliance monitoring activities, for both individual permits and selected general permits, and will work with local construction officials to find violations.

### ***Compliance monitoring of individual permits:***

The program will conduct inspections of all projects authorized by freshwater wetlands individual permits.

### ***Compliance monitoring of selected general permits:***

The program will focus similar attention on selected freshwater wetlands general permits, as designated by the Land Use Regulation Program. While general permits are only issued for activities determined to have minimal adverse environmental impact, permits also will be monitored based on factors such as environmental sensitivity of the area, compliance history of the permittee, and public interest.

***Local construction officials:*** The DEP plans to provide training for local construction officials so that they can detect wetland violations and report them to the DEP.

## **Conservation Resource Enhancement Program**

The Conservation Resource Enhancement Program is a joint state and federal land conservation program designed to address state and nationally significant water quality, soil erosion, and wildlife habitat issues related to agricultural use. The DEP and the New Jersey Department of Agriculture are sponsoring this program in New Jersey. The proposed program would enable the state to purchase easements or establish rental contracts on up to 30,000 acres of riparian (stream) buffers on agricultural lands. Under this voluntary program, some land would be removed from agricultural production for up to fifteen years, while the majority would be placed into permanent easements, to reduce and prevent nonpoint source pollution. These lands will include wetlands, and implementation of the program is expected to contribute to the state's goal of achieving a net gain in the quantity and quality of freshwater wetlands.

### **For More Information**

For more information on the Freshwater Wetland Rules, or a copy of the proposal, contact the DEP Land Use Regulation Program at (609) 984-3444, by email at [lurweb@dep.state.nj.us](mailto:lurweb@dep.state.nj.us), or on the web at [www.state.nj.us/dep/landuse](http://www.state.nj.us/dep/landuse).